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2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

28 June 2005

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Main Committee I

Summary record of the 6th meeting

Held at Headquarters, New York, on Wednesday, 25 May 2005, at 10 a.m.

Chairman: Mr. Parnohadiningra ..... (Indonesia)

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Draft report of Main Committee I (*continued*)

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05-35798 (E)

The meeting was called to order at 10.25 a.m.

Draft report of Main Committee I (*continued*)
(NPT/CONF.2005/MC.I/CRP.2, CRP.3 and CRP.4)

1. **The Chairman** said that the meeting would be suspended to allow the continuation of informal consultations on the draft report of Main Committee I.

The meeting was suspended at 10.25 a.m. and resumed at 12.25 p.m.

2. **The Chairman** invited Committee members to consider the draft report of Main Committee I (NPT/CONF.2005/MC.I/CRP.2), which would be submitted to the plenary Conference, and, in that context, his working paper (NPT/CONF.2005/MC.I/CRP.3), which reflected a middle ground among the many statements, conference room papers, working papers and proposals that had been discussed in the Committee, and the working paper of the Chairman of Subsidiary Body 1 (NPT/CONF.2005/MC.I/SB/CRP.4).

3. **Mr. Caughley** (New Zealand), speaking as Chairman of Subsidiary Body 1, introduced his working paper on the Subsidiary Body's discussions of nuclear disarmament and security assurances (NPT/CONF.2005/MC.I/SB/CRP.4). In two meetings and three informal consultations, he had made every effort to help the Subsidiary Body achieve consensus on the issues before it; however, that had not been possible in the time available.

4. **The Chairman** invited Committee members to adopt the draft report of Main Committee I paragraph by paragraph.

Paragraphs 1 to 3

5. *Paragraphs 1 to 3 were adopted.*

Paragraph 4

6. **The Chairman** said that the final sentence of paragraph 4 should read: "The outcome of its work is contained in paragraph 9 below".

7. *Paragraph 4, as amended, was adopted.*

Paragraph 5

8. **Mr. Heinsberg** (Germany) noted that the section entitled "Documents before the Committee" did not include a number of documents still in production and sought assurances that they would be added to the final version of the report.

9. **The Chairman** said that those documents would be included.

10. *Paragraph 5 was adopted, on the understanding that a number of additions would be made to it.*

Paragraph 6

11. **Mr. Rogosaroff** (Department for Disarmament Affairs) said that all working papers that had not yet been issued, including four submitted by the United States of America (NPT/CONF.2005/MC.I/WP.57, WP.58, WP.59 and WP.60), would be included in the final version of the report under paragraph 6.

12. *Paragraph 6 was adopted, on the understanding that a number of additions would be made to it.*

Paragraph 7

13. *Paragraph 7 was adopted.*

Paragraph 8

14. **The Chairman** said that "(NPT/CONF.2005/MC.I/SR.1-4)" should be inserted after "relevant summary record".

15. *Paragraph 8, as amended, was adopted.*

Paragraph 9

16. **The Chairman** said that, as discussed in informal consultations prior to the meeting, the paragraph would read:

> "The Committee was not able to reach a consensus on the text of the Chairman's working paper of Main Committee I (NPT/CONF.2005/MC.I/CRP.3) and the working paper of the Chairman of Subsidiary Body 1 (NPT/CONF.2005/MC.I/SB/CRP.4), as they do not reflect fully the views of all States parties. Nevertheless, the Committee agreed to annex the papers to this report for further consideration by the Conference."

17. *Paragraph 9, as amended, was adopted.*

18. *The draft report of Main Committee I as a whole, as amended, was adopted.*

19. **Mr. Luaces** (United States of America) said that his delegation wished to comment on the statement made by the representative of South Africa on 20 May concerning articles I and II of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). His delegation respectfully disagreed with the assertion that certain of the proposed amendments to the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of the International Maritime Organization (IMO) had "potential negative implications for the NPT".

20. The proposed amendments to the Convention were fully in keeping with the letter and spirit of the NPT. A large number of countries had worked diligently in IMO to formulate non-proliferation transport offences for inclusion in the Convention that would further the efforts of the world community to halt the proliferation of nuclear, chemical and biological weapons. Their initiatives were consistent with, and in furtherance of, their obligations under and the objectives of the NPT, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention), the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Biological Weapons Convention) and Security Council resolution 1540 (2004). Since the offences had been drafted to take into account the differing scopes of the three Conventions, a clause exempting legitimate commercial activities that did not violate the NPT should be added.

21. Such a clause would neither dilute the obligations of NPT parties nor increase their legal rights, including with regard to the possession or transfer of nuclear weapons, their components or means of delivery. The relevant language in the Convention was to be found in article 3 bis (2) of the proposed Protocol. That provision clearly applied only to NPT States parties and only to the extent that the transfers or receipts resulting from the transport of the item or material were not contrary to the obligations of the NPT States parties involved. The provision in no way authorized the transfer of nuclear weapons or of control over such weapons to non-nuclear-weapon States, which would be contrary to the NPT.

22. Those provisions of the Convention were fully consistent with the NPT. The Convention did not obligate any country to transport any particular item or to refrain from prohibiting the transport of items or materials on its flagship. Parties to the Convention would be obligated to criminalize in their domestic law offences at least equivalent to those in the proposed Protocol, but would not be precluded from adopting or maintaining domestic law provisions more stringent than those in the Convention.

23. The United States urged countries to support the proposed non-proliferation amendments to the Convention, which would complement the NPT and strengthen collective efforts by the international community to combat the spread of weapons of mass destruction.

24. **Mr. Samad** (South Africa) said that his delegation had taken note of the views expressed by the representative of the United States in response to its statement on amendments to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf and their potential negative implications for the NPT. It was his delegation's view that the amendments to that Convention and its Protocol, in particular the proposed savings clause, were contrary to the specific provisions of articles I and II of the NPT, which compelled both nuclear-weapon States and non-nuclear-weapon States not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly. Insofar as the transfer of such items intended for nuclear weapons programmes of the five nuclear-weapon States were excluded as an offence in the savings clause, the amendment to the Convention implicitly sought to reinterpret States parties' obligations under the NPT. The proposed amendments to the Convention contained no explicit reference to the delicate balance established under the NPT and consequently further entrenched the unequal legal regime for nuclear-weapon States under the NPT, contrary to their obligation to disarm.

25. His delegation therefore wished to reiterate its concern that the proposed amendments to the Convention were contrary to the letter and spirit of the NPT, which might have undesirable or unintended consequences for the non-proliferation and disarmament regime as a whole.

26. **Mr. Hasmy** (Malaysia), speaking on behalf of the Movement of Non-aligned Countries, said that it would have been preferable to adopt a consensus report; however, the Non-Aligned Movement recognized the enormous difficulties involved and fully believed that the report just adopted constituted the best possible outcome under the circumstances. The Non-Aligned Movement had participated in the discussions in an open, constructive and accommodating spirit, which it had demonstrated whenever possible, despite its major concerns during the deliberations.

27. **Mr. Mine** (Japan) delivered an urgent appeal by the Minister for Foreign Affairs of Japan, Mr. Nobotaka Machimura. Given the serious challenges currently faced by the NPT regime, it was urgent for States parties to maintain and strengthen the authority and credibility of the Treaty. To that end, the Minister for Foreign Affairs had delivered a statement on the first day of the Review Conference, expressing his country's strong hope that the Conference would issue a robust message enabling the NPT regime to be further consolidated. In the limited time that remained, and in the face of such a formidable task, it was incumbent on each State party to ensure the success of the Conference and to channel its creative and cooperative energy into achieving an agreed document. Japan would spare no effort to that end.

28. **Mr. Luaces** (United States of America) said that he had been planning to make some additional remarks; however, it was pointless to do so, in view of the statements just made by the representative of South Africa and the representative of Malaysia on behalf of the Non-Aligned Movement.

29. **Mr. Kayser** (Luxembourg), speaking on behalf of the European Union, thanked the Chairman of the Committee and the Chairman of Subsidiary Body 1 for their efforts.

30. **Mr. Paranhos** (Brazil) also thanked the Chairman of Main Committee I and the Chairman of Subsidiary Body 1 for their efforts to help reach a consensus. While his delegation would have preferred a report that took note of the working papers of both Chairmen, the final outcome was acceptable.

The meeting rose at 12.55 p.m.